IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.839 OF 2001 (S/S)

U.P. State Road Transport Corporation
Through its Regional Manager, District Dehradun
..... Petitioner

Versus

1. Labour Court, Uttar Pradesh, Dehradun, District Dehradun
2. Narendra Singh (Driver) S/o Sri Munshi Singh,
R/o Village Hasanpur, Delhi Road, Saharanpur, presently posted as Driver UPSRTC Depot, Hardwar, District Hardwar

..... Respondents

Shri A.N. Sharma, learned counsel for the petitioner,
Shri Gopal Narain, learned counsel for Respondent No.2.

Dated: 18.10.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari for quashing the impugned order dated 14.03.2000 passed by Respondent No. 1-Presiding Officer, Labour Court , Dehradun in Reference Case No. 130 of 1999.

2. Brief facts of this case according to the petitioner are that Respondent No.2 was employed as Driver in the Saharanpur Depot of the petitioner in the year 1997. The Respondent No.2 on 24.10.1997 was assigned duty to ply passenger Bus No.8389 from Saharanpur to Shamli. Since, the driver complained regarding some defect in that vehicle hence he was given another Bus No.6392 to ply on the said route, but the Respondent No.2 refused to ply that vehicle and as such refused to carry out his duty and left the depot and went home consequent to which the daily bus service from Saharanpur to Samli could not be plied causing loss of Rs.3080/- to the petitioner department. Thereafter, Respondent No.2 got absent from duty from 25.11.1997 to 28.11.1997 without any previous information or leave. On 24.11.1997, he also misbehaved with the Assistant Regional Manager, Saharanpur in

front of his relatives to whom he came to see off in bus station Saharanpur. In view of the said misconduct of Respondent No.2, he was served a chargesheet-dated 06.12.1997 wherein three charges on the aforesaid grounds were charged against him, Thereafter, a departmental enquiry was conducted against Respondent No.2 and after going through the enquiry proceeding, the said charges were found proved against Respondent No.2. Thereafter, a show cause notice was served to Respondent No.2 proposing the penalty in view of enquiry report. The Respondent No.2 filed his reply against the said notice and as the notice was not found satisfactory, the Assistant Regional Manager, Saharanpur passed an order dated 14.07.1998 dismissing the Respondent No.2 from his service and also ordered for forfeiting his salary. Being aggrieved, the Respondent No.2 thereafter raised an industrial dispute, which was decided in the following terms:-

> "***Whether the termination order of the services of the applicant/workman Shri Narendra Singh S/o Shri Munshi Singh, Driver by the employers from 14.07.1998 is justified and/or legal? If no, to which benefit /compensation the applicant/ workman is entitled and to what extent?***"

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the entire record of the enquiry and the oral and documentary evidence led by the parties held that the decision of punishment awarded to the workman/Respondent No.2 was not commensurate to the charges levelled against him. Accordingly, the labour court on the basis of the evidence on record came to a conclusion that the punishment awarded to Respondent No.2 was unjustified and illegal and accordingly, the labour court set aside the order of removal and directed for reinstatement of Respondent No.2 with continuity of service and a minor punishment of stoppage of two increments without cumulative effect alongwith 50% back wages.

was also directed to recover an amount of 3,080/- from the workman /Respondent No.2 from his salary.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The employers' pleaded before the learned Tribunal that on 24.10.1997, when the workman was assigned duty to ply Bus No.8359 from Saharanpur to Shamli and due to some defect in that Bus, he was told to ply Bus No.6392, but the workman refused to do so and hence as such the petitioner department had to suffer a pecuniary loss of Rs.3,080/-. The Tribunal while dealing with this issue found this fault against the workman and therefore ordered for recovery of Rs.3,080/- from the salary of the workman because the department had to suffer an amount of Rs.3,080/-, So far as the second point regarding his unauthorized absence from 25.11.1997, the workman produced the medical certificate by a Registered Medical Practitioner in which he was shown to be suffering from Influenza. The learned Tribunal has rightly recorded the finding that the workman was not as much cure that he could not even give the information about his illness, but since on 29.11.1997, he reported for duty with medical certificates and leave application, the gravity of this charge becomes much less. With regard to issue No.3 i.e. misbehaviour with his senior officials, the Tribunal has recorded the finding that the workman misbehaved with his officials but since from the report of Shri Prem Singh, Senior Centre Incharge, it could not come out that the workman has misbehaved with his senior, therefore the Tribunal has recorded the finding that seriousness of this charge also come down. Accordingly, the learned Tribunal rightly held that except issue no.1, the other two charges are not too much serious which have been levelled against the workman. Since, the Corporation had to suffer a loss of Rs.3,080/- on account of negligence on the part of the workman, the Tribunal rightly ordered to recover the said amount from the salary of the workman. The Tribunal further rightly held that the punishment

awarded to the workman was not commensurate to the charges levelled against him and accordingly ordered for his reinstatement with continuity of service and minor punishment of stoppage of two increments with cumulative effect alongwith 50% back wages.

6. I do not find any perversity or illegality in the judgment of the learned Tribunal. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226/227 of the Constitution of India. Moreover, no error of law in recording concurrent finding of fact by the Labour Court is pointed out.

7. The writ petition is devoid of merit and is dismissed as such. No order as to costs.

(P.C. Verma, J.)

Rajeev Dang